

Closed Caption Log, Council Work Session, 04/26/11

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A known unmeasurable year, we have that fully audited, that again is a test year as we go through this. That's what we're using. With that, that's our revenue requirement, how we go through that. Then we'll get into our residential rate design. On page 11, this chart which is kind of hard to see on the screen, but -- but as we go through this process, up to the top, and look at each

one of these boxes, there's three that I note that are really important for policy. The fairness part is definitely a policy decision. The affordability. Is a policy decision. And a transparency is a policy decision. As we bring this forward a recommendation these rates, those are going to be very important. The rate design in the industry, particularly for publicly owned utilities like Austin, is that to improve your fixed cost recovery, unbundling of the rate components, what -- what we do is we have a very low monthly charge, we include fixed costs through the rates themselves. You will see in the data, different users of electricity are paying for that. The trend today is to take that apart. If you look at the deregulated market in the state, their monthly bills are, they have a pretty high minimum charge and then the electricity tends to be on other side of it. So that's the trend. Introduction of wires charges. And an increased use of demand charges. By using new technology in meters and -- and in decoupling mechanisms of the cost of pass-through. We want to try to encourage and promote energy efficiency. Inverted block rates, I'll talk about that, demand pricing, used rates, those are all, if not recommended and implemented in this rate at this time, we are open to being able to add those and to add other features and do pilot programs and we'll talk about that. .. page 15, we have --

looking at our characteristics, of our residential class of customers, the profile is that we have 363,000 residential customers. The average use is 943-kilowatt hours. And I will repeat all of the data that's here. But what's interesting to note is that our customer assistance program, low income, their average use per kilowatt hours is a little higher and -- and much smaller customer group. Today, this is 2009, today we have 9949. Okay, now we're going to get into some data, again, this is available on our website, there's a lot more data than this, but I thought that I would throw out a few important slides. This is getting granular. But the residential bill frequency on this chart, what -- residential bill frequency, if you take 263,000 bills times 10 months, you end up with about 3 medical bills over the course of a year. If you distribute those in the kilowatt hour usage in each block that you have, you can see how that's shaped. So our average user is just slightly south of a thousand kilowatt hours. You can see that. We have a lot of bills in the very low usage. Then when you get up to the higher usage, you can see how it trends down. In the next page, 17, that is how we profile with our low income or cap customers, customer assistance program participants. A little bit different shape, shifted a little bit more to the right. What is interesting to note is that the message is that low income customers don't use less energy. A lot of them use a lot of energy. You can see that there, too, so that -- that gets into

how we -- how we would operate a new program or a -- or new rates, we have to think about that. On the next page, you can see the profile of residential in our system. This is peak. 00 p.m. 7:30 p.m. The -- the residential peak is a little later than the system peak which makes sense. People leave from work they go home and that's the trend. And that's the profile of our system. Residential. Our current rate structure, on page 19, is -- is \$6 a month, and that's winter, summer, I won't repeat -- I won't read everything on the page. That is our current -- that is our current rate structure, it's been that way

since 1994, but we've added a fuel charge since that period of time. So -- so fixed cost recovery and the cost of service gap, before I get into this, I'm -- I've used this simple way of trying to explain our electric rate cost of service. If you had a dinette and you made sandwiches every day, you had 14 different ones that you were going to serve, you priced that with all of the ingredients that went into it, at the end of the month, when you do your books and everything, there's some sandwiches that cost you more to make than you got for your -- than your revenue, in your retail markup, there are some that are less. That's really what happens in rates, too. We don't necessarily collect all of the true revenue out of every rate class and it's impossible to do, frankly. It's impossible to do. There's always some cost

subsidy between the classes. It's very similar for any pricing that you would do. So the current recovery of \$6 for a customer charge is significantly less than Austin Energy's cost of service. We'll see the data in a minute. But -- but what's been happening since 1994, is that -- is that the generation that we've acquired has gone into the fuel charge, but the -- but the fixed costs and everything are spread amongst the kilowatt hours, not in the basic charge. So we fundamentally have a disconnect in the way that we're recovering our fixed costs. The -- the preliminary data 01, 75 customer related charge and 14.26 cents wires charge. But extracting all of our pure cost of service, that's what it shows. Preliminary cost of service 30 from fixed costs for average residential customer for production and transmission functions. That doesn't mean that you put those charges in there. We have to go through a methodology to try to figure out how to get those into our rates. So the total cost of service 31 a month fixed cost for the average residential customer without -- that's the basic. Next slide. 22. What this shows is that the -- the rate -- the revenue, the fixed charges are 6%. But what we really are -- our fixed costs are 57%. So that's the balance. And when we go through this rate process, will we actually get it true to 57%? Probably not.

Probably not. We will get -- we will get somewhere closer but my experience with it is that from a policy standpoint we'll go through this and we'll try to figure out what the best fit is. The staff will try to bring something to you that -- that -- a price that accomplishes this. Let's go into some more data here. And -- and the residential monthly bill cost of service around current rates. On page 24. Probably the more interesting chart is the next one. Page 25. What this shows is that the red is the cost of service. Unbundled. And you see the numbers of bills again produced annually. And under our current rate structure, when we get out to where the lines meet, that's where cost of service is met. In this chart. That's what that shows. Our current rates are the blue. So we're under cost of service on the very low using, low consumption. So our strategies under consideration is to improve our fixed cost recovery, to raise the customer charge to reflect the cost of service, from \$6 to 18.75. Now, I say that, I'm not 75, what I'm saying is that that's the maximum. That's cost of service. It's somewhere there or less, but that's what the numbers are showing. And to recover our cost of service through wires 26 would be the maximum, that's the full cost of service. We need to improve the transparency and add pass through for wires and for other regulatory charges and charges that are beyond our control.

And to promote and encourage energy efficiency. And to -- this is an industry trend is to expand from a two tier rate structure to a three tier or five tier block structure. Last to provide a discount to low income customers. Page 27, here's what it would look like. This is full cost of service. Again, I'm -- I emphasize, this is not a recommendation for rates. This is the recommendation, this is what cost of service is showing. And if we run through our cost of service in the different tiers, this is what the data shows. But in no way is this a recommendation of what we're going to bring. We're bringing it to you for actual rates. This is cost of service. So existing column, the cost of service, is showing that our power produces 2 cents and our wires, 14, 18, and then if we look at our options, the 3-tier option and the 5-tier option, you can see the different break down that -- that we have worked on with our consultants to -- to develop those two scenarios. Now the next page is just data. It's -- page 28 and 29, this is data that shows the three tier and the five tier and how many customers, how many bills fall into those tiers. So for example on page 29 on the five tier, the -- you can see that over the course of the year, you know, roughly we have about a little over 100,000 bills that fall in through that top line.

So -- so 30 is a very important slide, very interesting. This actually shows you what -- what some increases would be. In different customer -- different customer use patterns. For residential. So under

three tier rate structure you can see what the current bill is in that line and then the bill at cost of service, again, this is the maximum, we would -- we would -- we were fully allocating costs -- fully allocating costs which is what it turns out to be. The impact, as you can see, is substantial and minimum charges per month for customers that don't use any energy. One of the unique statistics of austin energy is that we have -- we have 30% of our customers use less than 500-kilowatt hours a month. Which is very low. That takes into account statistics on cut ins and cut outs. What I mean is people moving in or out of the apartment, so there's partial usage a month. Those statistics are also buried in there. But -- but that's very high. You know, I didn't benchmark the industry for that, but that's a very high statistic that's unique. The minimum charge per month has to be adjusted. That's the significant issue and as you can see going forward, for some customers, 1500-kilowatt hours, the difference at -- fully at cost of service is not very much. 9% revenue needed overall rate revenue needed out of our rates, you can see that every -- how it's going to impact customers depends on how much energy they use. It's going to be -- going to be a communication exercise for us to make sure that we do that. The five tier and the five tier you can see the very large users end up with a

significant increase per month. That also provides incentives for energy efficiency and that's how the tiers are shaped. Page 31 we look at options of a three and five tier residential design above cost service. The -- the cost of service rates unbundled were still, we still end up with a little bit of uncovered cost of service rates. In other words, still fixed costs that are put inside the energy charges under this scenario. So some pass-through considerations for all rate classes that were -- that we're considering is that the fuel charge, the net ancillary service charge, ancillary services are -- well, they're -- they're operational costs that we spend with ercot and with running our electric system. And regulatory charges. Ercot administration fees, transmission access charge, and we're also beginning to look at and design a community benefit charge that would be so many cents per kilowatt hour. That would be for the street lights and for the discounts for low income. That's what we're considering. Also, on page 33, some of our existing programs and rates, they don't go away. In the residential area, we'll still have a green choice. We'll have a greenchoice program which has been very successful. As we take the utility to 35% renewable, though, the other 65% of green energy that somebody would want if they wanted to be 100%, we are having some debate about or some discussion about well, what makes up that other 65% and so that's -- this is all again part of our process and we're working on this. And time of use and demand rates, future pilot programs, we're building all of this into -- into it. Net metering. Net metering is for solar systems for anybody that has any type of behind the meter generation. And we're working on the rate for that as well. The rate design for that as well. If a customer, for example, has a solar system in and they generate more power than they actually use that month, the question is well what do they get paid? How much -- what, you know, there's mechanics to that. Again, we're continuing the greenchoice program, we have customers currently under contract. We will continue to honor those. A new greenchoice charge would replace the existing one going forth. I talked about net metering, the cost credit, we have further analysis we need to do on that. We want to take a look at and be ready for off-peak demand alternative rates. For electric vehicle charging, for example, for load factor, customers, and we want to keep -- make our rate design flexible so that we can come back and make changes to it. In fact, what I probably will end up proposing is that we come to the council at least once a year and if we have any slots -- small charges that we want to make to rates, instead of waiting many years, we will come back every year and say we want to tweak this or tweak that. That's what I would propose to do. In our customer assistance program, these are a repeat of some earlier slides. But on page 39, you can see the profile that we have of residential and -- and our low income program.

But the -- but the utility discount portion on page 40, 1 million to 9949 customers was used in 2010 and average discount at \$26 a month. We also had some emergency utility bill assistance, free weatherization, and a qualification for the program is on page 41. And the options we're considering on page 42 is -- is on the order of a flat discount or a percentage discount. And so anyway I went through this really fast, but this is what's under work right now. We're working on this. We have a lot more work to do. We'll enter into the commercial industrial group next month. And -- and now what we have to do with our residential work is we have to take this data and try to really shape it into a recommendation for rates and we will have to have that done later this summer. We'll have to have this all done later this summer. So p 4 -- page 43 the next steps, september -- well, june to july we will complete our

preliminary rate work, we will finalize our analysis, we will make electric utility presentations in september, we will have a special meeting september 19th regular meeting, october 3rd, the 17th and then we would bring it over to the council in november. That's our -- that's our plan right now. I will move real quickly through the next. This is really no news on -- on benchmarking. And what we have done is changed the charts a little bit. Really no change to the data. I want to point a new slide, though, on slide 47.

Slide 47 shows a comparative with different amounts of consumption per month. But austin energy sitting in good shape relative to the rest of the state, meeting our targets on the page 48, 49, and 50 which is again data that you have seen before. We've actually flipped the charts and made them upside-down or right side up, however you want to say it. We have put the average in there in the median, our goal is to remain in the lower 50% of rates. That's the summary of our benchmarking. I also want to point out the next slides on page 53, we have a generation plan that you have approved. We're moving forward with that. for renewable energy out there. On page 54, 55, this is a projection, a conservative estimate of what we think is going to happen over the course of the next two years. One change, something new, on page 55 on the right-hand side, the generation plan that you approved is on the left, the generation plan that we are doing forecasting with right now is on the right. What's changed is that we've added, we've moved out our additions to the sand hill combined cycle facility of 200 megawatts, out to 2017, that will save us a lot of financial burden. We've also removed an additional 50 megawatts of biomass out in 2016, in my opinion we have enough biomass right now. .. but the -- with that I'll open it up to any questions. I'm sorry I went through this really fast, I know that you are short on time. If you want a full load of data, you can go to our website, there's a lot more than this.

Mayor Leffingwell: That is kind of like standing under a waterfall here for the last few minutes. We'll have a lot of time to work on this and develop questions. I have one just to get us started. That's about greenchoice. I believe we have something like six matches out there is that correct.

Correct.

They expire at different times?

Correct.

Mayor Leffingwell: They will remain in place until their expiration or will they be renegotiated as a part of this cost of service?

They won't be renegotiated as part of this cost of service. When those batches are exhausted and those contracts and those -- as they are assigned to customers, they will away. But what we will replace it with at the same time is we'll introduce a new program and that new program will be greenchoice, but it will be a customer -- we haven't figured out exactly all of the resources that we have put it, it will operate similarly, but no more batches. If somebody wants 100% renewable energy, we will have a mix that we will sell them.

Everybody will be in the same batch.

Yes, sir.

Mayor Leffingwell: So when we go to this increasing the wire charge, and the basic --

basic charge, uh-huh.

Basic charge, that will also affect greenchoice it would seem to me.

Yes.

So it seems to me that if you're a customer, say, that has 100% greenchoice or actually manufacturers of surplus electricity currently, sending some back to the utility so they're not essentially paying zero or very small amount, that could be affected. By increasing the base charges, correct?

Yes.

It seems to me that they might not be in as quite of good shape with that -- with those individual solar panels or whatever their method is as they have been in the past.

Is that right or -- well, I think that -- i see where you are going. I think that depends on the actual rate that they get paid for the power that's the surplus, in other words what they generate. We haven't decided what that should be yet. But you are right that every customer will have a basic charge per month and that goes up.

Mayor Leffingwell: That's going to be a bigger percentage of the bill as opposed to the fuel charge or the cost of generation or anything else.

Right. For example, let's just say that at the end of the day that we ended up with a number around \$20 for a basic charge. Let's say that. That's -- that's going to end up with the -- with a \$240 charge a year and today they are paying \$72.

Mayor Leffingwell: Yeah, that's going to require a little education over time. We'll spread that information around. A lot of questions but I'm just going to ask you one more to give other folks a chance. Cost of service versus load factor. We've talked a lot in connection with smart grid issues about how the cost of -- cost of service might be less. The cost of service might be less depending on time of day. Is that yet to be determined for the future?

I think it's yet to be determined for the future. Time of use rates and using the meter technology to -- to design those, so what we intend to do is come out with -- with -- with really simplify our new rate design and then have the ability to add those types of rates as we go forward. We'll be working on that. There's a lot of interest in time of use rates.

Yeah. And -- and sort of really the backbone of -- of smart grid is time of use. The way I see it. One of the major elements at the very least.

Annual instead of waiting for 14 years, now we've got what appears to be if you consider the fact there hasn't been this increase for 14 years it appears to be large. You and I have talked in the range of possibly 10 to 12% the first year. So -- so you need to -- to take care to avoid that kind of situation in the future. The annual renewals. I strongly -- annual reviews, I strongly recommend that we do that. Mayor pro tem?

Martinez:.

I agree. It's almost -- similar situation at capital metro where for 20 years we didn't have any type of methodology for reviewing our fare increases and for 20 years we built up 33,000 customers who were riding for free. And we literally went to 50 cents per trip and it was, you know, you were destroying this community, you would think -- I think that's what we're going to go through even if it's just 10 to 12%. What I wanted to ask, though, how did we get here? How did we get to this point of such a discrepancy between what we charge each customer \$6 for cost of service when the actual cost is \$33?

Well, I -- I can only -- I can only explain it i think a little bit from logic. That is when the rates were done

in 1994, a lot of utilities have gone down this same path is that -- is that there was a mechanism in place that the rating agencies loved and everybody liked and that was the fuel adjustment. So as time went by and costs increased and you added new resources, whatever they might be. You just put them in the power charge. And that avoided having to come to you and go through all of this and do the exercises.

So the cost of service work is not -- it's necessary to do. We would have to do a cost of service analysis probably every five years going forward or every couple of years, not every year. But we would -- but I don't know how to explain that. But -- but that's -- that's my guess. Elaine, do you have another comment?

I can also add in last year's budget the financial policy for austin energy, we added a policy that requires that we perform a cost of service study every five years at a minimum. So we have added some protection in our policies to -- to at least re-evaluate cost of service periodically, long before the 17 year period that was on this time. That should help us. The other thing is that over -- over the time since 1994, the economic growth in some of the hot weather that we had provided some additional revenues that covered the increases on the customer in the side that were not passed through the fuel charge. So that -- that did also

thank you. On the -- on the breakdown of customer classes, who are the customers at 4,000 kilowatts and above?

Who are they at 4,000-kilowatt hours and above?

Martinez: Doesn't seem like very many, but there's --

44,000.

44,000.

There's some large holes, you know, there's some large holes in the service area.

Martinez: But if we're contemplating this three to five tier system was do we stop at 3,000 kilowatts?

Frankly it's a little bit arbitrary. Where we take the breaks, where we make the breaks. There's no exact perfect science to it. There's -- there's -- we've looked at the data, we've listened to our consultants who had designed rates for lots of utilities.

They've -- they've put those breaks in there. Really, when it comes down to it, it's really more of a matter of policy and -- and design and -- and I've always said that -- that rate design is more of an art than it is really a science. In some form.

Morrison: Well, i certainly want to --

Martinez: Well, i certainly want to have that conversation about how we mix and match those rate designs to maximize the benefits because a residential customer using 4,000 kilowatts, kilowatt hours per month is probably not going to even blink an eye at -- at another tier. They may start cutting their lights off a little bit more.

If you look at page 30, page 30 is really the one that kind of lays out what you're talking about. And you look at the impacts on different -- at different uses, v existing rates.

Martinez: Right.

Martinez: Like the mayor, I'm not going to ask a ton of questions. I will close out with this. I do have more I'm going to ask over time. I appreciate this presentation. I've never seen a 55 page slide presentation done so quickly. [Laughter] the last slide 55 kind of concerns me.

I want to make sure that I'm reading this right, your projections in 2020 we will only attain 15% renewable?

No, no. We're using these -- these acquisitions as a part of our financial forecast. Only. It's -- it's -- down in the bottom, it's -- generation plan in the forecast, the generation plan to be updated after rate design. So if you look at the chart above on page 54 you will notice we went up to 16 with our projection.

The golden rod, dashed line. What we are saying looking at five years in the capital program right now so we can look at that impact. Because I can't really accurately project anything beyond 16 right now in terms of the capital.

Okay.

Kind of ties with the financial report that we're going to do next.

Martinez: Great, thank you.

Good catch.

Mayor Leffingwell: Two quick follow-ups, just comments really. Whatever the rate structure turns out to be at the end of the day, it's going to have to be justified most likely before the p.u.c. So there has to be some science behind it, right?

Yes, sir.

It can't be just pure -- pure guesses. So I do think that that's going to -- going to affect tiered structures somewhat. I don't know if you agree or not. You mentioned also on the affordability goal, which is an official adopted goal that the council has approved along with the 35% along with the 2020, it -- we also have not only the -- the goal of the -- of staying in the lower 50% of all public/private utilities in Texas, but we also after this initial first year adjustment, we have the 2% maximum per year. That we have set as official goals. So we have to keep both of those in mind as we go through this process.

Mayor?

Chris?

Riley: Yeah, I want to pick up on that last question that Mike was asking about. Because I am troubled by this slide on page 55. It does seem to show in the year 2020, says in the year 2020 renewable portfolio 15%, help me understand why that says 15%.

The slide is there, the slide on the left is the one that's policy. You have approved that. That's the one that's 35% by 2020. Okay. The slide on the right, is -- correlates to page 54, the slide before, where we got the projection of the next five years of capital from the time we do the rates up until 2016.

So what we're saying is that -- in the 2016 time frame, that's all we're looking at in this chart. But what's important to note is that we did move sand hill additions out, out of that capital period. All right. So we

moved it out of that capital planning period from 15 to 17. I'm sorry for the confusion but this is our slide that we are using for capital planning for five years only.

Riley: But it goes through 2020.

It's showing the contract expiration in the win column, we tried -- wind column, we tried to show known events beyond the forecast period but not make any assumptions on any renewable accusations after our 2016 forecast period is what the number of the percentage renewable down there on the right 2020 is somewhat misleading because period. That's assuming do nothing. If you will recall, we have to -- we have to re-evaluate our generation plan every two years. We're in the off cycle year, so it was difficult for us to know what we would put in the outer years of the forecast, given we were trying to meet the affordability and given we didn't really know what -- what the outcome of the duration next year would be. ..

Let me address, also, that right now, we have an that has been closed, we received proposals. We're doing a first cut on that. Right now. And probably I will get presented it towards the end of april. And this year I expect to come here and get approval for some major wind acquisitions.

And those wind acquisitions, for example, if you look at the wind of 200 megawatts in '11, you know, it's -- it's likely that I could come and ask for more than 200 megawatts, depending on the deal that we look for. So we're not going -- we're not in any way staying off of our generation plan. We're going to acquire these renewables. The issue is that for financial forecasting, we wanted to put what we know we're going to be doing in there, not what we might project we're going to do. As elaine said, we're due to come back to you next year for a generation plan update and approval.

Riley: Okay. My understanding -- I've seen the chart on the left many times. That was part of a generation plan. My understanding was that was a -- call it a tentative sums about how we would progress towards 35%. I just want to make sure that we still have those tentative assumptions in place. Understanding that they may be subject to the adjustment after we go through this rate design process. That is still the case?

Yes, sir. That is the case. The only thing that I have in my mind, as we discussed it before, was that if we can't meet the 2% goal, then if we have to move it out to 21 or 22 and move it out a couple of years to make sure that's -- that's what we have to -- to adjust. You know, that's the variable that I get to take the pressure off of having some kind of a rate issue.

That we did -- that we did adopt the plan and for now at least I would like to make sure that we stay on course according to that plan.

Yes. I think what we'll do is i don't think we'll present that data on the right box the same way in the future.

I think that would be a good idea.

I just made a note. We'll fix that.

Riley: I appreciate that.

This is all I want to say a draft but this is what we presented to the customer involvement group and which has been working great.

I really appreciate all of the people that have participated understand that.

Yeah -- participated in that.

Riley: No doubt, absolutely. A couple of quick questions, first I notice you got through the whole presentation without mentioning efficiency rider, which is something that we have looked at in the past, instead a five-tier system. Would you explain why we would be going with the five-tier and not be speaking in terms of an efficiency rider? Well, I don't know that I have a good answer for it except that we are striving to have simplicity. Striving to have rates that are designed in sort of what I call the industry trend and the modern world and tiered rates is -- you know, has been well proven as a tool to promote efficiency. The efficiency rider is just a line to acquire revenue to support the programs. Our efficiency goals are there. They are in our base rates. There is no need in my opinion to have any extra riders or for anything really. We should be able to put everything in there. And I also will say the fuel charge will go to zero in this. So the fuel charge is on the bill. Now, we will still have one. Because we need to have one. I think the financial markets, the rating agencies, you know, that's a very good tool to have. But it will go to zero. It will go to zero.

Right. Okay. Then the last question, I picked up on the mayor's question about the choice program. We are no longer using the batch system. Help me understand the case that we would make to prospective greenchoice customers as to why it -- why their investment in greenchoice would further the city's goals? And the reason I ask is that -- that the question --

I question really there really is still a nexus between participation in greenchoice and the city's advancement towards its goals with respect to renewable energy. Seems like we've got those goals, going to be working towards them and it's not so clear exactly how the marginal decision to participate in greenchoice would affect that progress. We're -- you're not buying from a particular batch, you are just paying a higher rate. What is -- is there any sales pitch for greenchoice beyond please pay us a higher rate?

That's a good question. I guess the answer is we don't know yet. I'm listening to what you're saying, that gives me some ideas. But we -- we have to -- we have to go back, we still have work yet to do. We know that we're going to have a greenchoice program. We know that going out in the market and buying little pieces of wind project and selling them off to consumers is administratively burdensome. As we take the utility to 35% renewable, maybe customers are going to say that's enough for me. I don't know, there's a lot of market testing there, a lot of things we need to do. I think -- I appreciate hearing the support of bringing rates back every year because we may come back after one year, say it's not working right, let's adjust this and that. I don't have the answer to that.

Riley: Okay. I'll look forward to continuing that discussion with you in the future. Thanks.

Mayor Leffingwell: Questions? Bill?

Spelman: Predictably I have lots and lots of questions, I will hold almost all of them.

I was working on it.

Spelman: I'm trying to stifle myself as best I can. But I do have two that I just need to ask right now. One of them is the follow-up to the mayor pro tem Martinez's question because I'm not sure that I understood the answer.

Let me ask it in slightly different way. In 1994 we had I'm guessing a very similar cost structure to what we have now. Lots of fixed costs associated with distribution transmission and customer charges and relatively slow variable costs associated with generation. And is it -- is that historically true that our cost

structure really hasn't changed a lot since 199 --

here's a couple of fundamental things what changed too. That changed too. Back in 1994, er rot, generation dispatch, ERCOT, everything was different. I have no knowledge of how it really worked. I just know enough to be really dangerous frankly because I wasn't here. But it was a different marketplace. So today, in today's market, for example, renewable energy would have been handled totally differently. So today's ERCOT market has -- has changed fundamentally, a lot of our fixed costs. In other words, we depend on ERCOT charges and everything for transmission, everything else. I can see that if you were design back in '94 when Austin manager ran its own controller for example you would allocate differently.

Spelman: Transmission would be trivial compared to what it is now.

Exactly.

Right, right.

West Texas.

It is not uncommon, in fact I think the discussion that we will have is what is the right monthly charge for customers. \$33 is probably not the answer. But what should it be? As you look at utilities and we have the data, we could show utilities across the country, publicly owned, like Austin Energy is, that -- that, you know, what kind of structures do they have for rates? It is interesting data to look at, you know, if you get sort of get your rate nerd hat on, get really into it, you can see what people do. It is interesting.

Spelman: As the designated nerd in this city council, let me ask you a really nerdy question.

I will probably like it.

If you adopt have an answer for in -- if you don't have an answer for me, we can talk about it later. If you have a real low fixed cost, all that you are doing is paying for a kilowatt hour, which is fundamentally what we've got right now. That means every single kilowatt hour is going to cost you something. That would give you a certain provocation to reduce because they are expensive. That's your whole bill is kilowatt hours. If we increase fairly dramatically our fixed costs, getting into the system is going to c.o.p.s. You \$33 or \$57 at one point was one of your estimates for cost, 30 to 50 bucks a lot of money to get into the system, but the kilowatt hour charge is considerably lower because we don't have to charge as much per kilowatt hour that seems to me it's going to give people provocation. I had get into, now that I'm in, less than it did before. What effect can we realistically expect us to have on people's usage? Are they going to use more.

Well, price elasticity does happen, like is happening with gasoline right now. It will happen. I think what a lot of utilities have done a rate design to accomplish sort of what you're talking about is what they do in the first 500-kilowatt hours, might make them expensive so that in other words your base charge is being covered by the first 500-kilowatt hours. In other words, let's say for \$30 a month you get 500-kilowatt hours. Plus your base. So that's one way to do it, that's quite popular, you know.

Spelman: Do we -- given that the industry standard for rate structures for years was a relatively low fixed cost and then loading everything into the rates, into the kilowatt hours and the industry standard shifted to a higher fixed charge and a lower kilowatt hour charge, that's pretty much what's going on all over the cup, isn't it?

Well, it is primarily, because like Texas a lot of parts of Texas are deregulated. If you are served by AEP, for example, down south, that's the wires company, you will get a bill around 30, \$40 a month for the

wires. And then who you pick for power is -- that's -- add that on top. [One moment please for change in captioners] long-term planning, I can tell you from experience, we went from \$8 to \$25 a month, and the -- the customer relations difficulty that that was is agricultural customers who had multiple meters. Multiple accounts, and they said, you know, I used to have it all one meter and one of your company people told me I should put different meters in, you could see what happened there, because you're going to have a large fixed cost. So that -- that issue concerns me a little bit, but I don't know that it's as prevalent here as it would be in, you know, in more of the rural areas outside.

We have a lot of work to do here.

Thanks.

Thanks, lee. I was concerned about the same thing that bill's brought up, but it jumped out at me on slide number 30. If you're looking at the difference, the bill comparison and the difference line is particularly problematic to me because, for instance, for the very lowest folks, if we're looking, say, at the five tier structure, their increase is 100% essentially, whereas if you jump up to the 2500-kilowatt hour column, their difference is, you know, so it seems to me that we really need to find a way to balance our drive for sustainability with recovering our costs, and this -- this -- the way it's laid out, I know it's not going to be what you're proposing, but the way you're heading seems to be working counter to that, so I -- I know we have work to do in that regard. One overall question on slide 9 where you presented the really bad news of our ..

Uh-huh. .. That we are lacking. So my question is in terms of total revenue requirement, of course one of the important things about austin energy for the citizens of austin is that we own it so we're able to share in the process of it. Does this revenue requirement, and we do that through transfers. Does the revenue requirement presume a 9% transfer?

It does.

It does?

It includes the existing policies and transfers.

Okay. So that's -- that's important information. And then on slide number 17, where we're looking at the distribution of uses, especially for the low income users, one question that jump out at me here is for the -- you know, we have some really good programs some place for weatherization that we're using our go bonds for the home repair. Do we actually explicitly target the individuals that are low income that are very high end users with our weatherization program? I can't -- the answer is yes to -- in general, but to the high users, I don't know. I could find that out.

Because it seems to me that that would be a really great way to explicitly address the folks that are -- that are having some of the most trouble in terms of being able to afford cost of living in general, but specifically with utility --

I'll find out, be prepared to answer that next time.

Okay. Great. Lastly, the issue -- you know, we have some perhaps hopeful projections in terms of the way we're going to be living in this city, in terms of self generation, you know, with more -- more solar panels and all, and then also which could change the landscape of energy usage, hopefully significantly in the future, as well as electric cars, and so it's -- those are going to be trends that we hope to see in the future, and so I think that it's probably impossible to project those in any exact form here, all to say that the idea of coming back and adjusting things as we move forward sounds like a good idea because it allows us to take those things into account, because I think those things can help us in our rates in the

future. That's all, thanks.

Mayor, I just have a few questions.

Sheryl?

I share councilmember morrison's concerns about the low income user, and i would just simply say that in the education process we need to make an extra effort in that regard, and I'm not sure if we need to make notifications on the bills what actual items need to be taken up, but I know that that is a big issue. Secondly, I noticed on page 5 the rate design time line, and that we will actually be having a energy rate analysis in your recommendations about the same time that we are laying out the budget, and so i would just ask that you work with the city manager even though that will not be our final action to make sure that we do that in a manner that the public understands and the rationalization behind it, because that could be a major issue, and second, the question i wanted to ask you as you contemplate these increases that appear to be very necessary given the budget deficit of the utility, what impact do you anticipate that this may have on any competition?

Well, our goal within the whole plan in our competition, I think that -- I think this change in rates, austin energy will still be very, very competitive. I don't feel that it's going to do anything to hurt our competitive edge. I know that in the industry in general, all the other utilities are going to have to do something with their rates too.

Okay.

And that's -- it's a matter of timing on that ..

Okay. That's -- I mean, that's very important. Okay. Thank you, mayor.

You basically have to stay competitive, that's one of our goals.

Yes, it is.

Bottom 50%. Another couple of quick comments, bill brought up a couple of points about conservation and how this is going to affect conservation. I would like to point out that's another one of our goals by 2020 is to achieve 800 mega watts through conservation. So we'll have to keep that in mind throughout this design process, and one final point I just want to -- you talk about shortfall in this test year, which has gotten everybody's attention, that does not mean that austin energy is going to have to go out and borrow money, that will come from cash reserves which are fortunately adequate to cover us until we make these adjustments.

That's right.

Okay, I just wanted to make that point. Randi?

I had a question about the timeline. And I appreciate your comments about the folks who are serving on the public involvement committee, and i see that there's outreach scheduled for the summer and the fall, but as I'm talking to people, it came up even yesterday, there's a concern that things are moving too quickly, and that there isn't enough thinking up of some of the initiatives that we've had working so that people really understand how these -- you know, how the generation plan, how pecan street project, how these things are interfacing to drive what ultimately becomes the recommendation for the cost of service model. Do you have any comments about that, about why the timeline is aggressive as it is, and how we're involving people including those that are actually serving on the public involvement

committee.

Well, I do, and the public involvement committee, a lot of participants in there have been given a big education, whether they've liked the education or not, I don't know, but, you know, it's -- going through the mundane part of how to do the rate design, but when you come -- when it comes down to the creative part of rates, the fun part, I think that really comes down to policy. It comes down to for example, you were concerned about the time line from november to january. I don't know that -- that's pretty optimistic. I don't know that we come to you in november, we probably have many different discussions about what the ought to look like and we come back and do something again. That might go on more than january. It might go on a couple of more months. I don't know. But a lot of engagement by customers, they can go to the pick meetings, they can we will have more opportunity for -- and I've had a ton of engagement folks, you know, ideas when they get real technical with like pecan street and smart grid and a lot of things, what we want to do is we want to create a framework of rates and structures so that we can add those little tweaks to this rate design and another programs going forward. That is really fundamentally important. As new technologies out there and other issues need to be addressed, we can change them. So I don't know that I'm answering your question.

Sort of related to the question that laura and bill and others have raised about, you know, the connection between the price elasticity and the conservation and paying for the fixed costs up front is that, you know, with some of this technology you would have more control than you might have had before on what you're turning on and turning off and when you're doing that, and, you know, and I guess -- I know some of it is still a little ways off, but I think those directly involved with it certainly have the concern of making sure that we're contemplating those things as we come up with how we create that balance between what the fixed cost of service is going to be and what's the part that is something that people can effect. I think it's a great idea to be looking at what others have done in this regard, but I think that the technology is clearly changing and our -- and our -- you know, I think that the people actively engaged need to know that what they're doing has a way to impact how we approach that piece and that's -- you know, again, that is part science, I guess, but -- but, you know, the other thing is price elasticity, that concept, you know, it's -- it's really -- i can't really get my arms around it because I think that the -- you know, it's different for different people. I mean depending on what you're -- I mean all kinds of things can play into it. I mean there are many people motivated to do conservation not because of anything related to the cost of their bill, but because they care about carbon footprint and they care about doing the right thing. There are going to be other people who don't know about it or what they can do to actually effect how -- you know, the impact they can make on conservation efforts, they feel that nothing they're doing is really making a difference and we can be showing them how, yes, these little things can make a difference. It's kind of like the one step that we did with solid -- that's being going on with solid waste. It's not like something really thinks they can make an impact sometimes. And so that is the education part. But for some people the whole driver is going to be cost. They want to save on their bill, and so, you know, I'm not telling you something you don't know, but I think that the reason why people are thinking it's going too fast and -- and they're not -- is that the pick is going to be in the situation where they're basically getting information but not necessarily in a position where they can influence how we strike that balance. I just throw it out there.

Well, there's a fundamental difference between program design, whether they're efficiency programs or whatever they are and the rates, and some folks tend to sort of mash them both together. It's more of a financial tool. The -- the programs and energy efficiency programs and all the things that we do, we have to have a rate structure that we can change and modify to handle that going forward, but there's a disconnect between the two, and there's some folks that have tried to put both of them together. Does that make sense.

Yeah, it does.

And it makes it very complicated.

But I do think if there is a way at this point that you made of creating a situation whereas this technology does come online and as people can have more of an influence in what they're doing with their own resources that this will accommodate that, and that is part of the -- okay, thanks.

Sheryl?

I just wanted to follow-up on the comments that the mayor made in terms of really understanding the financial condition of the utility. I see where the ending balance is consistent with our financial policy, but i don't know what the strategic reserve fund, is it dictated by a certain amount by our financial policy?

It's dictate bid financial policy.

Do you know what percentage that is.

It's not a percentage. 120 Days of operating requirements including fuel. 60 Days for the emergency and 60 days for the contingency.

So that's why it is the same for --

yes.

Okay.

And regardless of whether we make a rate increase, that is just dictated by policies and we can decide if that needs to be altered.

Just one last quick comment following up on randi's about how technology, this has to be in a constantly-evolving state, because so much depends on factors outside our control, such as technology, somebody came up next week with a plan, a viable plan to store utility quantities of electricity, this whole picture would change overnight, and also cost reduction, which i think would be a natural consequence of the evolving technologies especially in solar and others, but not only technology, but legislation, you know, when we first addressedhis problem, the situation, not problem, situation, back in 2007, a lot of this was predicated on the anticipation of federal legislation particularly and marky, that changes the picture, it will continue to be addressed in future years and that will dramatically change the picture, so that's why it's important to look at this as an evolving plan in the out years and be prepared to make these adjustments on a frequent basis. Okay, thank you very much. It's been very helpful.

Are we doing our financials? I guess we're not done. We're going to be -- you don't have to listen to me. You're going to listen to --

we have a second briefing, item b on your agenda.

We kind of went through that. We thought it was going to be included in this.

Oh. We've got a few more slides, then. ..

Yes, city manager?

I think that -- I think that the discrepancy that was -- staff was attempting to clear up was relative to how the agenda is listed in terms of a, b, essentially articulating the same thing, so the intent all along was to -- today to present the quarterly report first, which is what you heard.

Yep.

And then the five year forecast consistent with the budget development process.

Go ahead. this -- these next slide also continue your -- excuse me -- your forecast presentations from last week where you saw the economic outlook and the general fund forecast. Forecast highlights, if you'll recall last year's forecast showed a funding gap in each of our forecast years. Our priority was to protect our long-term financial stability and restore the financial health realizing that we needed to move forward with a rate increase that would be combined with cost reductions to close our gap, as Larry said, we're well underway on the rate redesign, and this forecast includes rates in place January 2012, with a conservative estimate of that rate increase, and we will continue our cost management work in FY12 budget development. Our requirements are really broken down here on the pie chart. These are FY12 forecast requirements. About two-thirds of our requirements are really operating in maintenance, and operating in maintenance includes our fuel and purchase power and then our nonfuel operations which is our personnel, our contracts and our commodities. The other sort of our requirements is really related to transfers, and they're broken down in two areas, one primarily for our capital program, our transfers for debt service, and then our transfers from operating to our CIP for our cash-funded portion of our program and then the other transfers, our general fund transfer. Some of the key assumptions that we've made for expenditures, we are projecting no full time equivalent in our forecast. We do include the increases across the city for salary adjustments and insurance as well as the supplemental retirement contributions. We are projecting our fuel expense is assuming our production schedules for our own generation fleet with our planned outages, and nodal market conditions. And the fuel cost is key because that does affect our fuel charge, our fuel revenue out in the outer years. We're projecting increases for the on going Texas transmission construction program in our requirements as well. And we are continuing the general fund transfer policy at 9.1%. Our cost drivers are listed here. I won't go through all of them. These are just the cost drivers for the next year that we'll be trying to address during budget development, transmission expense will increase about 6 million. We've got about 5 million for labor-related increases. Our supplemental retirement will increase by about 4 million, the biggest increases, though, are related to our capital program, they're the two listed at the bottom. Bomb -- bottom. Our debt service will 3 million for the existing debt outstanding and planned new debt and our transfer to our capital program will increase almost 8 million. While we're moving forward with our rate review, it is important to look back and know that we have implemented some cost reductions and controls over the last few years. We had no new FTE's in our fiscal 10 or 11 budget years and none are planned in our forecast. Again, we had decreases in our nonfuel requirements for about \$18 million, in 10. These are controllable expenses, we reduced consulting and temporary contracts and then we were able to lower our debt service requirements due to lower interest rates and decreases in our capital plan. Similar things happened in our FY11 budget development. We decreased our contractual 4 million, ferring some maintenance on our powerplants and chiller plants, and other contractual reductions. We achieved a \$4 million savings in our utility while reallocating some of the costs for the 311 center for other funds particularly to the solid waste services fund and we'll continue working on our cost reduction plans. We're currently working on a 5% reduction plan. This page gives you more detail to be a little more transparent about our requirements. If you notice in particular, the transmission expense we've talked about a lot, the increase and the fact that we will be passing those costs through, it's actually going from about 65 million in FY11 and we expect it to go through 126 million by the end of this forecast period in 2016 and those are costs, they're not controlled by Austin Energy, they're passed on to us through a rate that's approved by the PUC. Moving on to our capital plan, we are very capital intensive industry and certainly the economy and the slow recovery has had an impact on our capital plan, we've experienced a lower load forecast the last two years and because of that, we may not need some of the capital resources as early as possible, so you're seeing some shifting of some projects out and some deferral of projects due -- deferral of projects due to the economy. Despite that, we do see our costs riding both for labor and commodities and our construction services contracts. We're continuing existing project commitments. Our billing system replacement is expected to be completed this next year, as well as our move to the new system control center, and we do have -- have included the generation plan, however, affordability is driving our decisions in the forecast similar to the O and M cost reduction efforts, we've had a similar effort, but more significant on the capital side. And

that again is due to the reductions economic conditions. The fy10 through 14 five year plan, we actually reduced our electric service delivery projects by 63 million over the five years. In last year's or the current year budget, the 11 through 15 five-year plan, we further reduced our electric service delivery project by about 24 million, we eliminated a contingency on our fayette scrub project due to its nearing completion looking like we didn't need contingency. We deferred and actually pulled about 35 million of district cooling projects piping connections for customers out of our plan due to less customers wanting to hook up. Due to the economy. And significant changes for our 12 to 16 plan which is this forecast period, as larry said, we've deferred our mega watt expansion two years. Last year's forecast had it in 2013 coming online in 15. And this forecast includes beginning the construction in 15 coming online in 17 before the summer season. We are including in this forecast a renewable acquisition, we are assuming that we have a structure that is a purchase power in the early years with a flip to ownership and debt that would happen beyond the forecast period. Typically those flips for tax reasons are in the year five -- five to seven years out. And then we just generally have a lower plan because some of our larger projects like the scrubbers are being completed. This slide gives you a projection. We are projecting a 1 billion capital spending plan, that compares to 7 billion plan that we projected last year, and that plan was a build-everything scenario. It included the full requirements of the generation plan and all of it would be built and debt funded with -- and owned. So this is a much more conservative, more affordable plan in our view. 1 billion, excuse me, our electric service delivery represents about 43% of the five year plan, and power production with the inclusion of the sand hill expansion is about 40% of the plan. I'll switch gears to revenues and then do a quick wrap-up. Again, we'll look at fy12 forecast revenues, and about 91% of our revenues are for sales of electricity and our fuel charge, the yellow and the green portions. The other 9%, the other revenue is about half of that is transmission revenue we receive from other utilities when they use our transmission lines, and that also includes infrastructure rental where we have people attached our poles and our towers, and our district cooling, our customer fees and our interest income. Some of the assumptions for our revenues again, I won't read all of these, but economic data heavily drives our forecast. It feeds directly into our load forecast particularly the population, and the employment growth, patterns. 1% increase in number of 3% kilowatt hours sales or unit sales growth based on normalized weather in our forecast. We have included the rate increase. It includes the revenue requirement increase of the 9%, and we have not used our strategic reserve fund to balance this forecast, and again, this next slide will let you see details of our revenue and how they break out. We have -- while the rate redesign anticipated including the base or the energy charge and the fuel charge as one rate, we've broken these out separately for transparency reasons here. Overall, our fund summary looks much better than last year. For 2011 we forecast last year an \$83 million deficit. When we -- when the council approved the budget, it was 46 million. This 53 million deficit reflects the holly powerplant decommissioning budget amendment that's coming up. Even with the rate review, the rate increase, we still have some cost reduction efforts to make because you see that we're not in balance structurally for fy12 or 13. We still have a \$7 million gap and a \$13 million gap in the first two years. This anticipated in 12 a partial year for the rate review. 13 Would be a full year of the rate increase or revenue increase. Again, you can see we -- toward the end of the forecast period, we'll begin building back to a better, healthier ending balance than we currently have, and improving our debt service coverage. With that, I'll conclude. We will continue our budget efforts through our budget development season and making our structural changes to bring this back in balance for 12. I'll entertain questions if you have any.

Questions? Mike.

Thanks, lee.

Just going from 2012 to 2013, why do we have a spike in debt from 6.7 to 13.4? Is there a project in there that we're --

are you talking about on debt service?

Yes. No, no, no, not just debt service, just overall ening balance, looks like, you know, in 2011 we're

really off and in 2012 we correct 7, and in 2013 we go back up to 13.4.

Right.

What's in there between 2012 and 13?

What's in there? What is in there is you've got a fairly large increase in your operating requirements, and that's in the nonfuel area transmission expense is going up eleven million. You've got an increase in your debt service also. You've also got a fairly large increase.

No, it's not specific.

No, it's not. It's overall increase, but significant increases between 12 and 11 for the nuclear and coal plant, the scrubbers will be fully online and they have increased operating costs. Those two are the biggest in the nonfuel operating increases.

I might point out, since you're on that line, that debt service drops in 2015 because the south Texas project getting to the point of paying it off.

Okay. Thank you.

Anything else? Okay. going to our general agenda for this week and I believe discussion requested on items five and 11 together by the mayor pro tem.

Thanks, lee, I'm going to try to get through this as quick as we can, because I know some phoebes need to go, but I think it's really important to ask quite a few questions on this item. Hopefully we can be concise and get these questions answered. But before I start asking questions, you know, I just simply want to ask the city attorney what parameters the council has in terms of the law in selecting a potential contractor?

Mayor pro tem, I'm going to ask Gordon Bowman, the lawyer in our office who has worked on these alternative procurement efforts to walk you through the statutory requirements that relate to competitive sealed proposals.

Good morning, mayor, council, city manager, the competitive sealed proposal statute is a process that's termed an alternative delivery method that is an exception to bidding. Ordinarily the city bids all of its construction contracts but in certain cases the law allows a certain amount of flexibility in the way the contracts are created and administered. The competitive sealed proposal process is probably the one alternative delivery method that is as close to bidding as you can get. But it allows you to award the contract on the basis of best value rather than to the lowest responsible bidder.

Can you use the microphone, you talk very softly.

Okay. Sorry.

Okay. On the Holly Street project, council had produced the competitive sealed proposal method and staff went out and issued a competitive sealed request for proposals, request for competitive sealed proposals. In that proposal the law requires the city to list the selection criteria that are going to be used in evaluating the offers and which will be used for selecting the offer that offers best value. On the Holly Street project, as I understand it, the city staff's ranking evaluations have been published, presented to the electric utility commission and placed on the council agenda. At this point it appears that the city staff has made its recommendation to council. Best value is a ranking valuation. It's a tool for the

ranking evaluation, the competitive sealed proposal process, and staff will have made a ranking evaluation as to who is the most highly ranked proposer, and then so on down the line, and the way the law works then is that assuming that council approves negotiation with the highest ranked offer, staff attempts to negotiate a contract with that offerer. If that fails, the law allows the city to come back and try to negotiate a contract with the second ranked offer and so forth until you get a contract for all proposals are rejected.

Thanks, gordon. And the reason I asked that is because I'm about to start asking some questions and obviously our parameters and what we can do as a council are limited and they're confined by what the statute allow, but that doesn't confine us to asking questions about the frustrating process of how we got to this particular point and that's really what I want to talk about, so that if there are improvements that can be made or identified moving forward beyond this, then we put these in place, but as you recall, this initially came to us some months ago -- was it in january, rudy? and the recommended proposer came in at \$23 million, I believe. Close to that. 24 Million. But we didn't use price as a scoring component in the matrix, and then once we saw the difference in proposals between the recommended firm and the second place team, which I believe second place was 18 million, rudy, it was very frustrating. How do we recommend someone that is, you know, several million dollars above the second place team, and the answer was, we didn't use price, we used things like experience and other factors. So fortunately because of our questions, we pulled that down, and we resolicited this and we put price as a factor now.

We used price in the first investigation as well, it's not that we didn't use price, they got points for price.

That's correct.

I think that is an important distinction.

What was the difference between the first and second.

That's what I want to know.

For the price -- rosie truelove, the price of director and management. The initial solicitation, the price -- the strict -- their proposed price was worth 13 points and the reissue of the solicitation that was raised to 25 points.

Out of --

out of 100 points not including the interviews.

But so what was the criteria put in place the second file that wasn't in place the first time under the pricing component in the matrix?

The criteria, those 13 points and those 25 points were not -- that's strictly a mathematical formula, so the lowest price proposal that we received would receive the full amount of points there and everyone else receive as proportion there of based on how far away they are from the lowest price.

On the first round is 13 the maximum amount of points you could get for price and the second round it was 25 as the max.

That's correct.

That's the emphasis we put on price the second time around.

That's correct.

And so -- so in the second round, and I've already asked rudy this question, but I want to ask it just, you -- for the public sake, there's a component that is 10 points, item 15 which is the interview, and we didn't conduct an interview in the second round, and I was told it's because there was a 12 point difference and a ten point maximum, so, you know, may not have an effect on an outcome, but it could have an effect on closing the gap between two proposers. Could it not?

Yes, sir, it could have, certainly, closed that gap.

So is this a standard practice if there is a discrepancy toward the end that is greater than the maximum points allowed that we just don't conduct the interview, do we do that on a regular basis.

Yes, that's correct. We -- we realize that interviews come at great expense of travel and for the consultants and if there's too big of a point gap that can't be overcome, then we don't hold interviews.

So for me, this interview, because of this -- the nature of how this project was put on the table and then taken off and then resolicited, to me, that interview would have been significant, for me as a council member, because in that interview I would have wanted to ask questions like how did you come from 24 million down to 11 million, and explain that in detail so that we can have that information. Now, I know they have, and that's great, they've sent us the letter and in fact I even predicted that's what the letter would say before saw it because I think it's true. I think commodities and recyclables have changed since the first time around. There's a tremendous amount of opportunity now with recyclables. More so than it was back then in the first round we had a \$5 million payment to the city, if you will, for going out and recycling whatever materials you harvested. In the second round we did not. You simply said, you take that risk, you go try to sell it, you make whatever you want on it, companies operate things differently. Some companies have capacity for storage until the price spikes and they can sell it. Some don't. Some are in this business more than others. For me I think it's the frustrating, you know, I can understand and get all of these details but I can't explain it to the public, and I don't know how to explain it to where they understand, you know, the exact same project, a little bit change in scope, but not a whole lot, can go from in January to today from 24 million down to \$11 million, and if we hadn't done this, if we had voted on this in January, were we really paying for -- were we really paying right price at that time? And that to me is frustrating, especially when asked publicly to explain how it got down to this point. This is before the letter, and the only response from the proposer was we sharpened our pencils. Well, somebody took an ax to that pencil and e-mail glad they did, quite frankly, because it saves the taxpayers the maximum amount of dollars, how do we explain to them if there is a flaw in the process, how do we explain that flaw and how do we explain the correction moving forward? What did we learn from this and what are we going to do differently.

I think that's a good question. In fact Rosie and I have been talking about that, what have we learned about our process and I'm sure the deputy general manager at Austin Energy, you've pointed out some of the key things that we learned, one is that we did shift the matrix and we did not weight the price for reasons of wanting to make sure we had a contractor who was sensitive to the neighborhood, who would work safely, would respect, you know, the different things that we were asking them to do, we underweighted price, and we saw the result of that, and I think that's the most important thing that we've learned is that, you know, in the future we need to be using the matrix that we have because it seems to yield better results as we see in this. It puts price back in as maximum points of 25. That is pretty much the standard, I believe, Rosie, so I think that is an important thing that we've learned is sometimes us as the customer of contract land management, you know, maybe we should not get choice on everything, and I think that is an important lesson learned here. It created perhaps a lot of confusion. It was I believe the first time we tried to use that and so that is something else we need to put in our learning, going forward with other projects that contract land management would manage for other departments but also in our own department, you know, make it simple, and hopefully making it simple gets the best

price.

Who did we use to help come up with that \$5 million figure the first time.

We used an estimate prepared for us by westin hearing solutions, obviously as you mentioned, the metals market does change, so people can treat that differently. At the time I think just looking at some of the history, I had them put back together some of the history of that, in october of '09. The estimate they had for -- which was when we were creating our specifications was that the value of the materials is about 4.3 million. In march of 10, it was 7 million, and 8 million, and today we estimate -- so it's a moving target. Maybe that's not the best way where we're trying to get people to nail down the best price for us. It was looking at quantls of materials in the plant, and then not taking the maximum, because of the risk that would impose to the contractors, that's how we settled on the five million, we thought it was probably in the range of 7, to try to be sensitive to fluctuation, we picked 5.

What I took from that in terms of a lesson learned is maybe we shouldn't put a set fee they would owe us back and just let them do their business so that we get the truest proposal the first time around, because i suspect in january the proposal that was before us was, hey, if you're going to charge us 5 million, we don't know what this market is going to do, we're going to plug it into our price and not have the risk. You're going to take that risk out of our hands and we'll get our five million and we'll go see what we can get on the market for it. That to me is one of the biggest components of where I think it got off track.

Yeah, I think you're right. That's why we left it out the next time around. We left that out and I think with good intent to try to make sure that we recovered some of the money for our customers and try to encourage maximum recycling on the project, I think the intentions were good, but your points are taken, that will be taken into consideration on future projects.

By taking out the 5 million on the second round, are we ensuring maximum resignalling, though? Now is it a risk that we may not have the ash insurance -- assurances.

They have to recycle 75% of the material removed from the plant site.

Okay. I wanted to ask on the scoring matrix, we have five maximum points for teams local business presence, and so proposer number one got 3 points, proposer number 2 got two points, and I just want to know what makes you local? What defines local?

That's defined in the evaluation criteria. And the way we define local in evaluation cry tier is i can't is as follows, I'm reading straight from the solicitation document now, a firm is considered to have a local business presence if the firm is headquartered in the austin corporate city limits or has a branch office located in the austin corporate city limits in operation for the last five years. Goes on to say the guy defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. Branch office is a smaller remotely located office separate from the firm's headquarters that offers the services requested and required under the solicitation, so to come up with that we look at the prime place of resident and we actually, you know, look at on gps and we also look at the sub contractors and we use the percentages that are included in the compliance plan for the sub contractors' participation as a way to calculate those percentages and those points.

Proposer number one has an austin office, and it's been in place how long?

I don't know that I have that in front of me. I can get you that information.

Proposer number two doesn't have an austin office or an austin presence, but they got two points over

proposer number 3 who has an austin office. They've got one point, I'm trying to figure out how do we -- if you're looking at the prime in their local presence, they've been up and running a certain amount of time. Proposer number 3 has an austin office, I don't know how long it's been up and running, proposer number two doesn't but they have more points.

It gets to their sub participation and how much of the work the subs are going to be doing. If you can like I can get you the backup how that was calculated for each of the firms.

How many times have we done a procurement process like this where overall price has a lesser value than anything else in the matrix?

Mayor pro tem, let me go back to one of the points.

Sure.

Sheryl made. The short answer is it's -- I can't recall where price was less than at least a quarter of the overall points, so I think the fundamental thing we've learned is that regardless of how complicated or sensitive the project is that we're working on, our standard matrix works -- our standard process works and the truth is I think we got a little too complicated. I think we got a little too fancy, and it didn't work out well for us, and it because good thing that it did get pulled down. We said it then and I'll say it again. Was the process initially, the criteria initially was flawed the whole 5 million thing was very confusing, even to us, even when we got the responses back, we weren't actually sure how to evaluate that. I know it was confusing for the contractors, so I just want to repeat that sheryl's description was that I would just simply say that our standard process can fit any project and the primary lesson learned is that we need to get -- we need to stick to our standard process and tweak it where it's appropriate, but not deviate so much as we did to put us in the situation that we are now, because again price has always been at least a quarter of the overall points because sit sit -- it is significant.

I certainly want us to own our part in this wherever we made some mistakes and try to learn from these lessons and improve out moving forward. It's going to be really confusing to the community when we -- if and when we vote on this on thursday, and because we really have to according to our own process and according to the law. But it just doesn't sit right with myself or the community and how it's been portrayed and how it looks. I realize that it's saving our citizens the most amount of money possible to get this project done. I don't want to delay this project anymore. It's critically important that we honor our commitments to the hol did i neighborhood. -- Holly neighborhood. We have to do it right. I think we've learned some lessons here where we could have done it better. There was one more point i had to make and I lost my train of thought there. But I'll open it --

I'll ask a quick question when you're thinking of that, in this evaluation or matrix, whatever you want to call it, are there certain items that are up or down qualified or not qualified.

Yes.

Yep, there are.

And it seems to me that that is a key question. Overall evaluating all the different points you might want to consider is the bidder qualified or not qualified and then to me, okay, what's the price? If they're qualified, what's the best price? I still think we need to continue to look at how we make the evaluation going forward. -- Forward. Randi?

I'm confused about this \$5 million issue and how it affected the other bidders, so --

I think I can make it pretty simple.

Okay.

Without trying to -- I'll just say it directly as it was, what we instructed the proposers or proposed proposers at the time is whatever your total cost is for the project, and I'll just make it easy, if your total cost for doing this work is \$25 million, we're only going to pay you \$20 million, because we're expecting that you're going to receive at least \$5 million in the recycling market, so you're going to get from the city of austin 20 million, and then you're on your own to get at least 5 million because our experts feel you're going to get at least 5 million. If they got 10 million, great for them, if they got 1 million, that's the risk that they took. What has been clear is that the recommended firm in the first solicitation didn't want to take that risk, and so they included the \$5 million in their bid. And in fact in their response to our request for explaining how they went from 24 to 11, that was one of the things they pointed out, since we threw that \$5 million out of the formula and we weren't considering that, they now went back and so that was 5 million right off the top that they -- again, it was not a risk that they were comfortable taking at that time.

Was the second bidder also in the same boat, because I mean I just -- what I'm curious about is we use the process we use in the first place, and the issue that became clear was that all things being equal, there was a six million dollars price difference between bidder one and bidder two. And they were a fraction of a point apart from each other, and the reason why we used that procurement process is because the city didn't really know what was going to be involved in this project. So the part I'm having trouble with is now you go back and you rebid it and the real difference is that now price is the number -- is the most important component, and you have what was the second place bidder, basically turner in a bid that is, you know, roughly the same as the first one, and you have the first ranked bidder with cutting half the price. It was a \$25 million bid that is now an 11 and a half million dollars bid. It was 24.9, now it's 11.5. 5 Million is one part of it, but that same 5 million would have affected the second place and the third place, you know, the others that bid it. What I'm trying to figure out is what else happened here?

Well, let me answer your first question. About what did the other bidders do? We didn't ask the other -- let me back up. I did not ask the other bidders this time around to reconcile the difference so I can't speak for and we don't have anything to present you on exactly what resulted in reductions, but the second bidder did reduce their estimate by \$4 million from the first time to the second time. We could speculate it was due to the recycling, but we don't know that for sure. The third low bidder, or the third bidder from the first time around reduced their 6 million, and, again, we could speculate that it was a \$5 million was part of that, but I don't know for certain, and then wondering if the other bidders reduced their bid by 5, and again I don't know exactly what resulted in those reductions, but I think the odds are pretty high that it somehow was factored to that \$5 million variable.

I know my guess would be that it would be factored high and I guess I don't really want to be making guesses, because the credibility is the question I have. I mean, yes, I'm happy that city is going to save money and get something less expensively than we originally anticipated, but I also know the reason why we used the first process the way we did is we couldn't exactly price it, and so to have that kind of - I mean it -- I don't know what other options we might have and maybe this is a question for legal, but, you know, to have somebody that, you know, have our auditor assess just, you know, the way that -- the credibility of the proposals, I mean I -- and maybe an interview or a presence in front of council might have made a difference, but to me that is just a -- I do think we need more information before we're going to make a decision like that.

Councilmember, let me respond to a comment about we couldn't price it out. In fact we could price it out, and westin, our independent engineer that we hired to estimate this project, initially estimated this project to cost us \$10 million, after we did 6 addenda the first time, a couple of corrections the second time around, the westin engineer, our engineer estimated this project to cost 12 .6 million, so we were able to price it, and that's why it goes back to that whole \$5 million really was an unnecessary variable

that we threw in here because we did know what it was going to cost to do this project.

But wasn't the appropriation 18 --

pardon me.

Wasn't the appropriation, you know, the cip budget that we looked at was the current appropriation was about 18 million? What was that based on, then, if it wasn't based on what you thought the project was going to cost? I mean I -- I mean I have the item that we had --

is that the budget?

That's 13 plus 5? Is that --

ask that question again, please.

Well, I mean the -- the current appropriation was going to be 18.8 million.

And we had to increase that last time, right.

Well, we were talking -- I'm just asking what was that \$18 million based on --

the difference between funding we had set aside and available for the project.

Didn't you set aside the money that you thought it was going to cost, wouldn't that be --

we did. We had done a project estimate, and as rudy explained, but our budget didn't necessarily match our project estimate. At the time that we set the budget, it was well before we had the project estimate because we had set it the year before, we true up our capital budgets. We needed to increase the appropriation for that project and so that's the second item and it's also in this packet too, is that we still have that gap between what is sitting over in our budget and needing to provide the additional funding for this project. In the last go round that number was wigger, even though it was going to come back to a credit to authorize the contract itself, we had to include that \$5 million in there, even though we knew we wouldn't spend it.

What are the options for us as a council if we wanted to get additional information before taking a vote on this? I don't want to delay it any further either, but i also -- I have some real concerns about the vast swings in dollar amounts here.

Councilman, consistent with prior advice from the law department, if the staff recommendation is in question, I think that council has certain amount of discretion to perform new evaluation and ranking of the current proposals. The current criteria does call for an interview. I think council would have that discretion as well, but that kind of throws, you know, a whole lot of other questions on the table in terms of timing and the ability to conduct those interviews, et cetera. If council were to consider any other proposals, they would have to do it on the basis of the criteria set forth in the request for proposals and proceed from there.

Say the second part again. If the --

I think the city is still bound by the selection criteria set forth in the request for proposals.

So the interview is the only way to get additional information?

Well, you could also look at the proposals themselves.

Okay.

As I think, you know, was subject of discussion some months ago.

Okay.

I believe what you said was that if you had conducted an interview and one person got zero and the other person got 12, it wouldn't have changed the recommendation.

That's correct. 10. The maximum point --

10. Excuse me.

If they got 12, it would have.

Right. But the point is without getting into the higher mathematics here, the interview would not have changed the recommendation even if one person maxed and the other person zeroed.

That's correct.

Okay.

Mayor? Sheryl and then mike.

Okay. I want to be clear on what our choices are right now. Last time we threw out the bids and started all over. Do we still have that choice?

Yes.

Okay.

Absolutely.

The second choice is to do interviews but as you pointed out, that probably would not change the results.

Right.

Correct? And then the third choice is for the council as a whole to actually reevaluate and look at the proposal? Okay.

And fourth choice would be to follow staff's recommendation as it's on the agenda right now.

Okay. Now, I want to go to the actual proposal. Now, is it true that we can pick any one of these four companies? Is that possible? Or do we have to take the top two.

No, I don't think that is true. I think your -- as we've tried to hit this point over and over again, I think

you're bound by the selection criteria and the rankings that you could come up with --

only if you reevaluate, why give us four people and we don't have the choice of four people.

Gordon, it's really important that you hear us, I'm going ask you to work at speaking into the mic.

Yeah, sorry, it's right -- it's practically in my mouth. One of the things about this statute that is a little bit funny is that you can select everybody that's a qualified proposer to be on your list, and then, you know, the way the statute works is you start negotiating your way down that list. If you don't come to a, you know, an agreement with the number one choice, then you move further on down the list until you make a contract or all proposals are rejected. In order to select somebody else at the council level, you would have to look at the selection criteria and come up with your own rankings, basically.

Which is what we started down the road of doing last time? Okay. Let me ask you -- and i understand the complexity of the 5 million, but let's just put that aside, because we have one company i believe that is dealing with that, or maybe two. What was the original proposal versus the current proposal of each of these individual companies? I've got trc at 23. It was, and currently 14. What was dixie?

Councilmember, let me -- I can walk you through that, in the original proposal. 9 million, and now it's 11.5. Dixie, the initial one was 8 million, and now it is 15 million. (One moment, please, for ..) now is the time.

Use timing and their normal processes in the market so we know there's going to be variability in that and how each of the proposers would look at it.

And I simply make that point, just to clarify, because that's the same question that I think i asked. Rudy said that they didn't ask the others to clarify because we haven't had an opportunity to do that. So we don't know if they -- that's what he said. That we don't know without asking, but even if we had an interview to scm, it wouldn't make -- to scm, it wouldn't make -- ask him, it wouldn't make a difference in the rank I think. randi, I think i got that. That would be a key question but it wouldn't have been dispositive, right?

Thank you.

cole: never mind. Never mind. [Laughter] I just want to say, I thank you. [Laughter] trying to get to the bottom of this. Thank you. Thank you. I'm just trying to say thank you. Okay. We've made a lot of focus on the price, but talk to me about change orders. Do we know anything about these companies and their change order process? Because I generally know that companies can bid low and then come in and make a lot of change orders and we're not paying attention to the change orders, and so do we know anything about that?

This contract would be subject to the 25% change order limitation by state statute, so this -- we would not be able to increase this contract by more than 25%. If any change orders come in and they're over and above the 5% contingency that staff has asked for with the action that's posted on the agenda on thursday, those change orders would have to come back to council for review and consideration. Anything over and above the 5% contingency that we've requested. but can you get in below council discretion, by -- below 5%, below 5% change orders?

There can be change orders within that 5% contingency amount, yes.

Cole: okay. My final question is who -- does trc have audited financial statements?

Yes. and what about dixie -- I mean, who has -- do all of these companies have audits?

Yes, they do. That was one change we did make in the evaluation criteria. When we did the reissue for this particular project, we did put a requirement for audited financial statements in the pass fail nature of the financial stability, and all of the firms did pass that review and everybody did turn in audited financial statements with -- and do they all have clean opinions?

Yes, with clean opinions.

Cole: okay. No further questions, mayor. putting you guys on trial. [Laughter] so I wanted to ask gordon on 3 in the mate rick, it's whether or not the proposers meet the mbe/wbe eagles or good faith efforts? Is that a statutory requirement that it simply be a yes or no question as opposed to a pointed, scored?

Well, that's a little bit of a complicated question, but we can't give points to mbe/wbe participation under, you know, just basically federal law. You can consider their participation as a yes or no.

there are some requirements we have to look and at -- the reason i asked that, if you look through the proposals, proposer one has less participation than proposer 2 but they both get the thumbs up because they follow mbe rules. If we scored them by points I would assume that proposer 2 would be higher than proposer 1 because they either met or exceeded those goals, but that's not allowed, right? ra ramirez with the mbe/wbe goals. I'm hearing you say -- right, but the second has a higher participation right.

You're absolutely right we don't differentiate between how what you might characterize as how well people meet goals. Our threshold is simply whether or not they met goals and if they didn't, whether they did good-faith effort, and the reason that we have such a narrow range for assessing that is because it is a very sensitive program, a strict scrutiny. So we do only the smallest amount possible to making our contribution to improving the disparity in the austin market. so I think my question -- I think gordon answered it, so we can't put a value, a numerical value on that component of the matrix?

Correct.

Martinez: okay. Thank you. any more questions? Okay. Thank you. Any other items anyone would like to bring up?

Shade: mayor?

Mayor leffingwell: randi? I was curious on 48 which is dealing with all the various charter amendments, you and mayor pro tem and bill on this and I guess my question is one of the things -- I notice that we have the issue about the clerk's office. One of the things I've noticed since we don't do charter elections very often, there's always a little hodgepodge of things that we need to make sure to remember to include when we do it, and I was specifically looking for the issue of the deputy clerks. That's in there. But one of the other issues that I know that I've raised before but I don't see on the list and I think it's especially timely right now is that currently our charter has the planning commission set up to have the chair of the -- the president of the aisd board serving as an ex-officio member of the planning commission, but doesn't allow him to appoint anybody. So I'm thinking about bringing forward an amendment and I was curious if you-all had looked at it and decided not to include it or it fell off the list. But this would have somebody from the planning commission rather than having like currently the president of the school board does not attend the meetings, but if he could designate somebody, perhaps we would have a better link between our land use discussions and our and issues of concern to the aisd. It was something I was thinking about. I didn't realize it until i saw that on the agenda but that's something I'd like to talk about including. Certain certain nly be open to amendments from the dais on additional items that might be included. And I'll be the first to admit this is contended of a rough job. We initially had in mind a target date of november of 2012, but there are other things in the mix right now

that we have to take into consideration, and one of them is pending state legislation mandating single-member districts. The other is a potential for a citizen petition to put this on the ballot by -- in november of 2011 or perhaps in may of 2012. The state legislation, as i understand it, mandates -- is not very specifically, it just mandates six districts but has to be implemented within one year. So if it were passed in this legislative session we'll be on a very short timetable to actually make a determination of what -- what the makeup of the council would be for perhaps the next election. So we put this together kind of quickly and I know it has an impact on staff's workload at a very bad busy time, but it certainly -- certainly there is no guarantee that we caught every change that could be made or needs to be made, so I'd be open to potential amendments. so I could bring forth something on thursday related to that and if I can get my act together and maybe work with some folks i would like to do that, because it's one that I know that chairman sullivan brought up multiple times and he served on the facilities task force as well, and it's something i think all of us have been talking about the need for. So I want to definitely look at that, but I guess the other question I had was, so the city attorney discussion was something that we are -- I thought we already had passed, but this is actually asking for the drafting of the -- of the item as opposed to passing -- yeah, council has already approved a resolution directing that the city attorney issue be on the next charter election, whenever that is. but never drafted the actual language for it? This is actually calling for the drafting of the language of it. Is that correct?

That's the way we read it, council member shade. That's the way we read most of the council member governance issues, the way it's divided, that we would be drafting language to make these happen. in other words, when we passed it a while ago to put it on the next charter amendment, we never took the next step which would say draft the language? well, yes, and of course with the anticipated timetable of november of 2012, that didn't become an issue until now, but basically this is on a 90-day timetable, which would put us into july, i believe, end of july, and council is probably going to have take take some kind of official action, and I don't know what the exact date -- maybe karen knows, so probably sometime in august to put these things on the ballot.

Sabina romero, city legal. You ever question about the timeline, you're right, this 90-day window puts us at about july and traditionally the latest we've called an election would be about late august, so it would be about right for our prior practice. it's on a tight timetable, no question about that, but the whole idea is if there is something on the ballot anyway, it might be desirable to have a competing item on the ballot. So the voters could take their pick or make the choice of which particular system. And we don't -- I don't think anybody knows at this point exactly what the proposal is going to look like, and if might be multiple options, different maps that would be presented for a choice. Just thinking about that right now. We got 90 days to figure that out, which is a pretty short period of time. But it's potentially a momentous thing, and the other thing you have to take into consideration is you put something -- charter amendments out before the voters. Win or lose, you can't consider any more for another two years, which would put us into, at the very least, november of 2013. so by july we would know what would have happened to the state legislation at that point. Hopeful hopeful ly. yeah, I mean, i would hope. And as far as a citizen petition that could be going on concurrently, I don't know a lot about that, but what would the timing be for citizens required to get the petition signed? It's like 18,000 signatures by what date to get it on a ballot for november? well -- can you answer that?

A petition would need to be received in the same window of time that council has to call the election, and I think our challenge would be that per the city's request of an opinion from the secretary of state many years ago, the items that go on the ballot can't be in an either/or format. It has to be a yes or no vote on each item. So we would need to consider how different ballot items can be reconciled in the chance that everything passes, nothing passes. So we will work with it as hypotheticals because realities. but how long are the citizens working on this effort or any other effort that citizens might have to -- for other items besides the issues being single-member district? I don't know what other amendments charter members might be working on. I don't know the timelines. Citizens who want to initiate that, what do they have to do? They have to have the language that they would propose being on the ballot. It has to be approved by an attorney -- or by the secretary of state or --

no. they can just put whatever they want on a petition. Clerk.

Shade: the city clerk. Walk ne through that, how many signatures, what date, and what is the role of the city council by that point?

The petition has to be submitted with valid petitions of a certain age. Off the top of my head i want to say 180 days, but you get the idea. So there's a petition validation process that goes on when the city receives a petition. If we receive it in time to be added to the election, we do so. If it's received too late, it's slated for the next event. Shirley dentri, city clerk has joined me.

We gave the petition, they contacted our office, and they said what's sort of your drop dead deadline. We told them we could not guarantee any petition could be validated and made through the process if it came in after august 3, so that's kind of our drop-dead. September 7 is the date to call the collection this year, so when you back it into council meetings and what my staff needs to do to validate the petition, what we need to do to present the language to you, we felt august 3 was the safest date in which we could get everything done. so it really sounds like everything is concurrently going to be arriving at the end of july or early august. it's appropriately messy at this point.

Shade: got it. Okay. I get it. but i do want to emphasize that this really doesn't commit to anything. All this does is direct the city manager to draw up the proposals and then council would have to have another vote -- have to have another vote to actually put these things on the ballot, and I'm sure a lot of discussion. you mentioned something about having a short window of # 0 days. You know, if we have to put it on the november 2011 ballot, and -- I'll just remind you, the item you and I supported in 2006 that created a charter revision commission actually came up with multiple scenarios and actually drawn maps. And so we don't have to start from scratch. I think we could take that work that was done that never made it to a ballot in 2007 and start from there, because there is a six map, an 8 map, an 11 map drawn out already. it's a starting place for sure, but remember, we have had a census since that time and a lot of sentiment at the time was, on the council, i remember, the council does did not endorse putting it on the ballot and one of the reasons for that discussed was we want to wait until this 2010 census so we'll have a better sense of where these lines actually go. Chris? mayor, do you expect that there's any public participation, any element in the manager's work over the next 90 days? Certai certai nly there can be and should be, I believe, as much as public participation as we can organize, and I'm open to suggestions from the council on how to do that, and we can discuss that thursday on the -- potentially how we could -- certainly it's not going to be the in-depth amount that we would have if we were talking about 2012, but we need to have public input on this before we go forward. Laura? thanks for the explanation, and there's a lot of balls that are being juggled right now, i understand that, but one concern I have is when we went through the discussion before that you mentioned, mike, one of the issues that came up was what is the minimum number of districts we can have that will essentially pass muster with the voting rights act and the department of justice, and it was my understanding that potentially six would not be enough. And so my concern about the drafting of this language is if we run into that situation, are we -- you know, within the next 30 -- 90 days, is staff going to have enough flexibility to provide another option? well, first, it's not exactly correct to say that six would not be enough to satisfy the justice department. It would not be enough to create a certain minority/majority or plurality districts. You will have to get somewhere 15 or above to do that. That's my understanding. But to answer your question directly, these -- this has to be part of the discussion within the next 90 days, is what looks feasible that would likely pass doj muster during this time. So that's one of the main criteria, of course. well, that -- and that would apply to the petitioners. well, sure, but I was just concerned about -- I appreciate your comments there that we do -- do need to be paying attention to that, and I'm just concerned about whether staff has enough discretion from this resolution to actually be addressing that and bring something forward with greater than six if they find that we are in that situation. well, my personal opinion is i think that would be within the discretion, but I'll let the city manager -- or city attorney answer that.

The city manager doesn't know the answer to that question. [Laughter]

and let me just say, sabina and I rebound talking about this all -- have been talking about this all weekend and we're in the process of vetting out that, council, to help us with that, knowing kind of the general process that the justice department will be looking at. But we just -- I think we have enough guidance to say, go look at this and bring us something that you think legally meets, you know, all the tests and make some recommendations. I think -- because the language that I see here is the city council should consist of six members elected from a geographic districts. So it's not clear to me that that allows the discretion that we're talking about here. Perhaps you feel it does.

I think that when we hire outside council, one of the things I think they're going to talk to you about are legal requirements, and some of the things that the justice department will be looking at. So even though this says "should," I think you're probably going to get some legal advics that enough? Is it not what they think may be enough? What's not? But I don't think this limits. that's my main question.

Let me just say with respect to -- we could be talking about any matter in terms of direction from council. It is always our responsibility to try to carry out your direction to the best of our ability, and that sometimes includes not only doing exactly what you say, but in the course of accomplishing the task, if it becomes clear to us that there are other options that you need to be aware of, then we bring those.

Morrison: okay. Great. That helps a lot. And then I just wanted to -- I know we're out of time, 4 here is eliminating staggered terms on the city council, and for me that's a rather controversial issue. I'm not sure at all that i think that's in the best interest of the city, from my point of view, in terms of having the potential for having a whole new council at the dais. So that's one of those things. Presumably we'll be able to does some more, but the jury is still out for me and I'd appreciate thoughts from others. well, two basic thoughts. Obviously we thought about that, the potential for having a whole new council, but if that happened, you know, that would be somewhat dramatic and maybe well-deserved if it happened. [Laughter] and the other thing, staggering terms basically doubles cost.

If you're talking about roughly 800,000, let's say, a million dollars per election, this system would give you one election every four years as opposed to the current system of two elections every three years, which has staggering in it, or staggering -- a staggered system with two -- with four years would be two elections every four years, basically double the cost of election. I understand that. I just think that we need to, you know, weigh the cost of perhaps having everyone on council being completely new.

I think bigger is voter participation. That to me, is to try to maximize voter participation. To me when you stagger those out, that's where you start diluting and you start not having participation. Putting everybody on at the same time as the mayor mentions, lines it up, has one uniform election every four years and maximizes that voter turnout because all of us are on the ballot. The legislature does this every two years. The texas house, the entire house could change, 150 members. But they all get elected --

and u.s. congress.

Martinez: and congress. I don't think it's an anomaly, I think it's an improvement. And quite frankly if the community wants to chair the entire dais, that's their right. I think the role of the state legislature or the congress is very different in than the role that council place in terms of the city. So -- plays in terms of the city. So essentially we're nor like a board of directors than we are like a legislative body and there are also costs associated with having all council members running for office at the same time that takes them away from the job of actually running. So I think that this is one of those issues that there is a lot of controversy around, but I guess the issue for me is that we have the opportunity in 90 days to not vote to put that on the ballot or to look at how it fits into other recommendations. I think, you know, the other discussion point is of course something I've been advocating, is having elections for city council

members in november. that's on here. and I know that that's on there, but is it in odd years?

Mayor leffingwell: yes.

Shade: or should it be? Should it be when our turnout is greater in even years and we have presidential races and other things. And there's a lot to stuck. But we have the opportunity -- to discuss. There's -- we have the option to not vote to put them on the ballot. and we have the option not to all agree on

shade: exactly. Exactly. We probably won't. And we probably won't. mayor, I want to run through my concerns real quickly. I agree with everything randi just said about the staggered terms, and I don't believe that if every one of us were running for election right now we would went from a \$23 million contract to an \$11 million contract. I don't believe that the mayor would have had the opportunity to bird dog austin energy like he does. I know how stressed I feel when just the three of you-all are out in terms of talking to staff, meeting with staff, looking at things, so I don't support the staggered terms just because I think it makes a big difference every time one of you-all are here, just to totally focus on the city, even if it's an hour a day, and every hour you add to that I think adds to how we govern. So the 800,000 looks like chump change compared to mayor lee leffingwell talking to somebody.

That being said, last time we had a concern about the african-american representation, and ryan robinson told us that we had to go somewhere between 11 to 13 representatives, and i know that's been a concern, and we decided to wait till the census, and I heard karen talk about getting legal outside help to figure that out.

But I want to add that i testified at the legislature on a single-member district by workmen, and what one of the representatives from dallas, I believe her name was callaway, talked about all of the challenges that dallas had had to their single-member district system.

So it's important to me that not only do we look at this in terms of what we are giving staff the discretion to bring back, but even passing this resolution, do we set ourselves up for a challenge because we have not put what we know will pass justice, or put as an alternative what we know would pass justice -- well, I shouldn't way what we know, what we suspect would pass justice.

And finally, I support chris on the need for a citizens committee.

And then finally I want to ask the city manager, because we have given him a lot to do in 90 days, and -- how do you feel about -- what kind of restrai --

well, obviously I'm concerned about it.

Offer a correction.

I believe council member riley asked about public participation as opposed to a citizen committee, if I'm not mistaken, but obviously concerned about that.

I see express that to the mayor, and in the course of our conversation he characterized all of the other related issues, the petition drive, what's going on in the legislature, so i certainly understand the pressing need associated with getting work done within 90 days. I appreciate you raising it with me. I had a similar conversation with you as well. But I do -- I do recognize the frame of 90 days, and we will work very hard to do that. I'm glad you raised it because I would have said to you anyway, you know, we do have lots of other things. Obviously the most notable is that we're in the middle of the budget process, but as council member knows, there are a number of other assignments that we have that I'm not at liberty to talk about here today, and so on. So it will be challenging. We will do our very best to be responsive within that time frame. and finally I want to say that I do agree with randi about the city

attorney issue and needing to tweak that language.

Thank you, mayor. and one thing that might give you a little bit of comfort, city manager, is that the council will be on recess from june 23 to july 20 --

mayor, I want to make one last comment because this will come up over and over again.

Ryan robinson did make a recommendation last time if we wanted to create a majority african-american district we'd have to go to 14 districts, but we need to keep in mind, when you're drawing voting districts you're not drawing them based on demographics.

You're voting on voting age and registered voters in that picture, and that is very different than trying to draw it on purely demographics.

We have to keep that in mind.

We have to go to 14 districts to go a majority african-american district, but when you break it down by voting age and registered voters, we can do that and we demonstrated it in 2006 with the map we have. that will be a big part of the discussion we have in the next 90 days.

I assume there's nothing else.

Without objection we stand adjourned at 11:35.